

SUBSTITUTE FOR

HOUSE BILL NO. 4626

(As amended June 8, 2011)

A bill to amend 1937 (Ex Sess) PA 4, entitled

"An act relative to continuing tenure of office of certificated teachers in public educational institutions; to provide for probationary periods; to regulate discharges or demotions; to provide for resignations and leaves of absence; to create a state tenure commission and to prescribe the powers and duties thereof; and to prescribe penalties for violation of the provisions of this act,"

by amending section 4 of article I, sections 1 and 3 of article IV, and section 2 of article V (MCL 38.74, 38.101, 38.103, and 38.112), section 4 of article I and section 3 of article IV as amended by 2005 PA 124 and section 1 of article IV as amended by 2005 PA 136.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

ARTICLE I

2

Sec. 4. The word "demote" means to **SUSPEND WITHOUT PAY FOR [15]**

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1 **OR MORE CONSECUTIVE DAYS OR** reduce compensation for a particular
 2 school year by more than an amount equivalent to ~~3~~-**[30]** days'
 3 compensation or to transfer to a position carrying a lower salary.
 4 However, demote does not include discontinuance of salary pursuant
 5 to section 3 of article IV **OR A NECESSARY REDUCTION IN PERSONNEL,**
 6 **INCLUDING, BUT NOT LIMITED TO, A REDUCTION IN WORKWEEKS OR**
 7 **WORKDAYS.**

8 ARTICLE IV

9 Sec. 1. (1) Except as otherwise provided in section 1a of this
 10 article, discharge or demotion of a teacher on continuing tenure
 11 may be made only for ~~reasonable and just cause~~ **A REASON THAT IS NOT**
 12 **ARBITRARY AND CAPRICIOUS** and only as provided in this act.

13 (2) **THERE IS A REBUTTABLE PRESUMPTION THAT A TEACHER WHOSE JOB**
 14 **PERFORMANCE HAS BEEN RATED AS INEFFECTIVE ON 2 CONSECUTIVE**
 15 **PERFORMANCE EVALUATIONS UNDER SECTION 1249 OF THE REVISED SCHOOL**
 16 **CODE, 1976 PA 451, MCL 380.1249, IS AN INEFFECTIVE TEACHER.**

17 (3) This act does not prevent any controlling board from
 18 establishing a reasonable policy for retirement to apply equally to
 19 all teachers who are eligible for retirement under the public
 20 school employees retirement act of 1979, 1980 PA 300, MCL 38.1301
 21 to ~~38.1408~~, **38.1437**, or, having established a reasonable retirement
 22 age policy, from temporarily continuing on a year-to-year basis on
 23 criteria equally applied to all teachers the contract of any
 24 teacher whom the controlling board might wish to retain beyond the
 25 established retirement age for the benefit of the school system.

26 Sec. 3. (1) On the filing of charges in accordance with this
 27 article, the controlling board may suspend the accused teacher from

1 active performance of duty until 1 of the following occurs:

2 (a) The teacher fails to contest the decision to proceed upon
3 the charges within the time period specified in section 4(1) of
4 this article.

5 (b) A preliminary decision and order discharging or demoting
6 the teacher is issued by the administrative law judge under section
7 4(5)(i) of this article.

8 (c) If the preliminary decision and order is to reinstate the
9 teacher, a final decision and order is rendered by the tenure
10 commission under section 4(5)(m) of this article.

11 (2) If a teacher is suspended as described in subsection (1),
12 the teacher's salary shall continue during the suspension **UNTIL THE**
13 **EXPIRATION OF 90 CALENDAR DAYS AFTER THE TEACHER'S CLAIM OF APPEAL**
14 **IS FILED WITH THE TENURE COMMISSION OR UNTIL THE CONCLUSION OF THE**
15 **HEARING CONDUCTED UNDER SECTION 4(5) OF THIS ARTICLE, WHICHEVER IS**
16 **EARLIER.** However, if the teacher is convicted of a felony that is
17 not a listed offense or of a misdemeanor that is a listed offense,
18 the controlling board may discontinue the teacher's salary
19 effective upon the date of the conviction. If the teacher is
20 convicted of a felony that is a listed offense, the controlling
21 board shall discontinue the teacher's salary effective upon the
22 date of conviction. As used in this subsection, "listed offense"
23 means that term as defined in section 2 of the sex offenders
24 registration act, 1994 PA 295, MCL 28.722.

25 (3) If a preliminary decision and order discharging a teacher
26 is issued by the administrative law judge and the tenure commission
27 subsequently reverses the preliminary decision and order of the

1 administrative law judge, the tenure commission may order back pay.

2 ARTICLE V

3 Sec. 2. (1) Any controlling board upon written request of a
 4 teacher may grant leave of absence for a period not to exceed 1
 5 year, subject to renewal at the will of the board. ~~± Provided, That~~
 6 ~~without request,~~ **ADDITIONALLY, A CONTROLLING BOARD MAY GRANT A**
 7 leave of absence because of physical or mental disability ~~may be~~
 8 ~~granted by any controlling board~~ **WITHOUT RECEIVING A WRITTEN**
 9 **REQUEST FROM A TEACHER** for a period not to exceed 1 year, ±
 10 ~~Provided further, That any~~ **SUBJECT TO RENEWAL AT THE WILL OF THE**
 11 **CONTROLLING BOARD. A** teacher ~~se~~ **WHO IS** placed on **AN UNREQUESTED**
 12 leave of absence ~~shall have~~ **HAS** the right to a hearing on such ~~THE~~
 13 unrequested leave of absence in accordance with the provisions for
 14 a hearing in **SECTION 4 OF** article 4. ~~, section 4 of this act.~~
 15 ~~Provided, That no~~ **A** leave of absence ~~shall~~ **DOES NOT** serve to
 16 terminate continuing tenure previously acquired under this act.

17 (2) **AS A CONDITION TO REINSTATING THE TEACHER AT THE**
 18 **EXPIRATION OF THE LEAVE OF ABSENCE, A CONTROLLING BOARD MAY REQUIRE**
 19 **A TEACHER WHO IS ON AN UNREQUESTED LEAVE OF ABSENCE DUE TO PHYSICAL**
 20 **OR MENTAL DISABILITY TO FURNISH VERIFICATION ACCEPTABLE TO THE**
 21 **CONTROLLING BOARD OF THE TEACHER'S ABILITY TO PERFORM HIS OR HER**
 22 **ESSENTIAL JOB FUNCTIONS.**

23 Enacting section 1. This amendatory act does not take effect
 24 unless all of the following bills of the 96th Legislature are
 25 enacted into law:

26 (a) House Bill No. 4625.

27 (b) House Bill No. 4627.

1 (c) House Bill No. 4628.